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Balmain, NSW 2041
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In re Application of :
SILVERBROOK :
U.S. Application No.: 10/510,095 :
PCT No.: PCT/AU02/01167 :
Int. Filing Date: 29 August 2002 :
Priority Date: 20 May 2002 :
Attorney Docket No.: YU188US :
For: A NOZZLE GUARD FOR AN INKJET :
PRINthead :

DECISION

This is a decision on the petition to withdraw the holding of abandonment filed 23 May 2005 and the petition to revive under 37 CFR 1.137(b) filed 30 May 2006

BACKGROUND

On 05 October 2004, applicant filed papers to enter the national stage of PCT/AU02/01167 which was accompanied by, *inter alia*, a check in the amount of \$1,080.00 for recording an assignment (\$40.00) and the Basic National Fee (\$1,040.00).

On 15 April 2005, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) because applicant failed to provide the full U.S. Basic National Fee by thirty months.

On 23 May 2005, applicant filed a petition to withdraw the holding of abandonment.

On 30 May 2006, applicants filed a petition to revive under 37 CFR 1.137(b) along with a check of \$1,530.00 for the petition to revive fee and remainder due on the U.S. Basic National Fee.

DISCUSSION

Withdraw the Holding of Abandonment

Applicant claims that a check of \$1,080.00 was submitted with the initial filing

which covered the Basic National Fee. As such, the holding of abandonment should be withdrawn.

A review of prior USPTO Fee Schedules show that the U.S. Basic National Fee increased on 01 October 2004 to \$1,110.00. Applicant filed the subject application with fees totaling \$1,080.00 on 05 October 2004. Thus, the holding of abandonment was proper.

Petition to Revive Under 37 CFR 1.137(b)

A petition to revive pursuant to 37 CFR 1.137(b) requires: (1) a proper reply, (2) the petition fee required by law, (3) a statement that the "entire delay in filing the required reply from the due date for the reply to the filing of a grantable petition pursuant to this paragraph was unintentional," and (4) any terminal disclaimer and fee required pursuant to 37 CFR 1.137(c).

The fees required to enter the national stage changed on 08 December 2004. The required fees are now: the Basic National Fee is \$300.00; the Search Fee is \$500.00; and the Examination Fee is \$200.00 totaling \$1,000.00. Applicant has submitted a \$40.00 assignment fee, a petition fee of \$1,500.00 and other fees totaling \$1,070.00. This is sufficient to meet items (1) and (2) of 37 CFR 1.137(b). Applicants made the required statement of an unintentional delay required by 37 CFR 1.137(b)(3). A terminal disclaimer is not required.

Accordingly, all requirements under 37 CFR 1.137(b) have been satisfied.

CONCLUSION

The petition to withdraw the holding of abandonment is **DISMISSED**.

Applicants' petition to revive under 37 CFR 1.137(b) is **GRANTED**.

The excess fee of \$70.00 will be refunded. This application is being forwarded to the National Stage Processing Division of the Office of PCT Operations for continued processing.



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